

Serial No. 10/587,457
Amdt. dated November 3, 2010
Reply to Office action of May 13, 2010

REMARKS

In the Office action, claims 2-6 and 11 have been rejected under 35 U.S.C. 112, second paragraph as indefinite.

Claim 11 is now amended to provide antecedent basis for the various die and punch elements and the die holes. Claims 2, 4, 5 and 11 has also been amended to change "at least one" to "one or more". It is believed the rejection under Section 112, second paragraph is now overcome.

Claims 5 and 11 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Menzin (U.S. 5,755,152) in view of Dantigraber (U.S. 2003/0029325). Reconsideration of this rejection is requested for the following reasons.

Menzin fails to disclose the structure recited in claim 11. Menzin teaches upper and lower mould elements that are *movable* and slidably driven within a fixed ring mould. See Menzin at figures 1-4 and column 6, lines 9-14. This is inapposite the device in claim 11 which recites a *stationary* upper mould plate with die element.

In addition, claim 11 states the intermediate mould plate is adapted to be moved up and down relative to the stationary upper die element and movable lower punch element. This

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structure is not taught in Menzin which discloses a ring
(intermediate) mould that is *fixed* and not movable.

Finally, it is respectfully asserted there is no prior art suggestion for substituting the hydraulic cylinder of Menzin with that taught in Dantlgraber. The Dantlgraber device is an injection molding machine for manufacturing plastic articles (paragraph [0002]) which has not relation to the food industry. One of ordinary skill in the food manufacturing industry would not look to the manufacture of plastic articles in an effort to find an alternative means for driving the mould plate and punch element of Dantlgraber.

The rejection of claim 3 under 35 U.S.C. 103(a) as unpatentable over Menzin in view of Dantlgraber and Pels is believed to be improper for the reasons stated above.

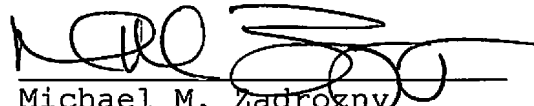
Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

The government fee for a three month extension was paid at the time of electronic filing of this paper. It is believed that no additional fee is due. If that is incorrect, debit Deposit Account No. 192105 and notify the undersigned.

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Respectfully submitted,

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